

§ 21.42

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

50 CFR Ch. I (10–1–07 Edition)

§ 21.43 Depredation order for black-birds, cowbirds, grackles, crows and magpies.

A Federal permit shall not be required to control yellow-headed red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided*:

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.

(b) That any person exercising any of the privileges granted by this section shall permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 47525, Nov. 15, 1989]

§ 21.44 Depredation order for designated species of depredating birds in California.

In any county in California in which horned larks, golden-crowned, white-crowned and other crowned sparrows, and house finches are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his/her general supervision such of the above migratory birds as